# CITY UTILITY USERS TAX ACT

## Act 100 of 1990

AN ACT to permit the imposition, revival, and continued collection by certain cities of a utility users tax; to provide the procedure for, and to require the adoption of a prescribed uniform city utility users tax ordinance by cities desiring to impose and collect such a tax; to limit the rate of such tax; to prescribe the powers and duties of the department of treasury; and to provide for appeals.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990 ;-- Am. 1998, Act 548, Imd. Eff. Jan. 20, 1999 ;-- Am. 2011, Act 57, Eff. Jan. 1, 2011
**Compiler's Notes:** Enacting section 1 of Act 57 of 2011 provides:"Enacting section 1. This amendatory act is retroactive and takes effect January 1, 2011."

The People of the State of Michigan enact:

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## Chapter 1
## CITY UTILITY USERS TAX

### 141.1151 Short title.

Sec. 1.

This act shall be known and may be cited as the "city utility users tax act".

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

### 141.1152 Uniform city utility users tax ordinance; contract with lighting authority; adoption; rescission; amendment; notice; report; placement of revenue in police department budget; payment to lighting authority; "police officer" and "lighting authority" defined.

Sec. 2.

(1) The governing body of a city having a population of 600,000 or more, by a lawfully adopted ordinance that incorporates by reference the uniform city utility users tax ordinance set forth in chapter 2, may levy, assess, and collect from those users in that city a utility users tax as provided in the ordinance. However, a uniform city utility users tax ordinance containing substantially the same provisions provided for in chapter 2 adopted by the governing body of a city before June 13, 1990 that has not been rescinded by that governing body is considered an ordinance adopted under this act and a tax imposed and collected under that ordinance is revived. The governing body shall set the rate of tax in increments of 1/4 of 1% that shall not exceed 5%. If a city currently eligible to levy a tax under this act enters into a contract with a lighting authority, in which it pledges revenues from the taxes levied under this act, the city is authorized to levy the tax under this act until all related outstanding bonds of the lighting authority have been paid notwithstanding the population of that city.

(2) A uniform city utility users tax ordinance may be lawfully adopted or unless revenues have been otherwise pledged rescinded by the governing body at any time and its adoption shall become effective on the first day of any month, following adoption of the ordinance, as

specified in the ordinance. The ordinance may be rescinded at any time by the governing body in the same manner in which the ordinance was adopted and with appropriate enforcement, collection, and refund provisions with respect to liabilities incurred before the effective date of its rescission. The ordinance shall not be amended except as provided by the legislature. A village and a city under 600,000 population shall not impose and collect a utility users tax except as otherwise provided in subsection (1). A city that adopts or rescinds the tax shall notify within 7 days by certified mail all public utilities or resale customers affected by the action of the governing body. Except as otherwise provided in this section, a city now having or that may attain a population of 600,000 or more shall not impose a utility users tax except by adopting the entire uniform city utility users tax ordinance as set forth in chapter 2.

(3) The administrator, as that term is defined in chapter 2, of the tax shall file a report indicating the total amount of revenue collected in the prior fiscal year with the state revenue commissioner by August 1 of each year, beginning on August 1, 1985. The administrator shall make the report available to the public at the same time.

(4) Unless revenues have been otherwise pledged to pay bonds issued by a lighting authority, the revenue generated from this tax shall be placed directly in the budget of the police department of a city described in this act and shall be used exclusively to retain or hire police officers.

(5) Notwithstanding subsection (4) or any ordinance of a city to the contrary, a city that forms a lighting authority shall pay $12,500,000.00 annually to that lighting authority from the proceeds of the tax authorized under this act. If the lighting authority issues bonds pursuant to a contract with the city under this act and pledges revenues from taxes levied under this act, those revenues shall be deposited and used as provided in this act. After a contract described in this subsection is entered into, the trustee, after setting aside funds as required by the trust indenture, shall pay to the lighting authority $12,500,000.00, less the amount set aside. The trust indenture shall provide that the remaining revenues be returned to the city. Nothing in this subsection shall obligate a city or trustee to remit to the lighting authority more than is collected from taxes levied under this act.

(6) As used in this section, "police officer" means a police officer, investigator, or police sergeant.

(7) As used in this act, "lighting authority" means a lighting authority created under the municipal lighting authority act.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990 ;-- Am. 1998, Act 548, Imd. Eff. Jan. 20, 1999 ;-- Am. 2005, Act 197, Imd. Eff. Nov. 9, 2005 ;-- Am. 2011, Act 57, Eff. Jan. 1, 2011 ;-- Am. 2012, Act 393, Imd. Eff. Dec. 19, 2012

**Compiler's Notes:** Enacting section 1 of Act 57 of 2011 provides:"Enacting section 1. This amendatory act is retroactive and takes effect January 1, 2011."

### 141.1153 Uniform rules governing appeal.

Sec. 3.

The state commissioner of revenue shall publish uniform rules in accordance with and subject to Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, governing the form and manner of appeal from a final determination by a city affecting a utility, resale customer, utility user, or other person and purporting to be made under or in administration of the uniform city utility users tax ordinance. The rules shall provide for at least 30 days after notice of a final assessment, denial of claim for refund, or special ruling in which the appeal may be filed. They shall provide to

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the utility, resale customer, utility user, or other person or his or her duly authorized representative and to the city an opportunity to present evidence and argument and to examine witnesses relating to the matter under appeal. Promptly after completion of the hearing, the commissioner shall affirm, reverse or modify by written order the action of the city which is the subject matter of the appeal, and shall furnish a copy of his or her order and opinion thereon to the utility, resale customer, utility user, or other person and to the duly authorized official of the city.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

### 141.1154 Compliance with order; grievance; appeal; recovery; payment.

Sec. 4.

(1) The parties, within 30 days after receipt of the order of the state commissioner of revenue, shall fully comply with all directions and requirements of the order unless theretofore excused therefrom during or as a result of a final determination pursuant to an appeal from the order of the commissioner as hereinafter provided. If the utility, resale customer, utility user, or other person or the city is aggrieved by any such order of the commissioner, he or she may appeal within 90 days after receipt of notice of the order to the circuit court for the county in which the taxing jurisdiction is located.

(2) If a utility, resale customer, utility user, or other person, as the result of an appeal, is found entitled to recover any sums paid, they shall be paid from the general fund of the city. The city shall promptly and uniformly comply with a final order upon appeal hereunder affecting the interpretation, administration, or application of the ordinance.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

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### 141.1155 Applicability; exemption; qualified start-up business.

Sec. 5.

(1) The uniform city utility users tax ordinance does not apply to a person or corporation as to whom or which it is beyond the power of the city to impose the tax provided for in the uniform city utility users tax ordinance.

(2) For tax years beginning after December 31, 1996, a person or corporation, except a casino, is exempt from the tax imposed under this ordinance for public utility services provided in a renaissance zone to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696. As used in this subsection, "casino" means a casino or a parking lot, hotel, motel, or retail store owned or operated by a casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.

(3) For tax years beginning after December 31, 2004, a qualified start-up business is exempt from the tax imposed under this ordinance for the 12-month period beginning November 1 for each tax year in which all of the following occur:

(a) The qualified start-up business applies for the exemption as provided in subsection (4).

(b) The governing body of the city adopts a resolution approving the exemption as provided in subsection (5).

(4) A qualified start-up business may claim the exemption under subsection (3) by filing an exemption affidavit claiming the exemption with the treasurer of the city that imposes the tax under this ordinance on a form prescribed by the city. The affidavit under this subsection shall

be filed on or before September 1 of each year that a taxpayer claims the exemption under subsection (3) and shall include all of the following:

(a) A statement that the qualified start-up business was eligible for and claimed the credit allowed under section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415, in the tax year that ended immediately before the November 1 in which the exemption under subsection (3) will be claimed.

(b) A copy of the qualified start-up business's annual return required under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, for the year in which the credit was claimed under section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415, upon which the exemption under subsection (3) is based.

(c) A statement authorizing the department of treasury to release information contained in the qualified start-up business's annual return filed under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, that pertains to the qualified start-up business credit claimed under section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415, upon which an exemption under subsection (3) is based to the city.

(5) An exemption under subsection (3) is not allowed unless the governing body of the city that collects the tax under this act adopts a resolution approving the exemption. Exemptions under subsection (3) shall be approved at the last official meeting of the governing body of the city in September of each year. The resolution adopted by the governing body of the city may approve the exemption provided in subsection (3) for 1 or more of the qualified start-up businesses that claim the exemption under subsection (3) by filing an affidavit on or before September 1 as provided in subsection (4).

(6) A qualified start-up business shall not receive the exemption under subsection (3) for more than a total of 5 tax years. A qualified start-up business may receive the exemption under subsection (3) in nonconsecutive tax years.

(7) As used in this section, "qualified start-up business" means that term as defined in section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990 ;-- Am. 1996, Act 455, Imd. Eff. Dec. 19, 1996 ;-- Am. 1998, Act 241, Imd. Eff. July 3, 1998 ;-- Am. 2004, Act 322, Imd. Eff. Aug. 27, 2004 ;-- Am. 2007, Act 175, Imd. Eff. Dec. 21, 2007

### 141.1156 Ordinance set forth in chapter 2.

Sec. 6.

The uniform city utility users tax ordinance is as set forth in chapter 2.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

### 141.1157 Retroactive application.

Sec. 7.

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This act shall be applied retroactively beginning July 1, 1988. The authority of a city to impose, collect, and enforce a utility users tax prior to and up to the date this act is signed into law is validated and ratified.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

### 141.1158 Legislative intent.

Sec. 8.

This act is intended to eliminate the confusion surrounding the legal status of Act No. 198 of the Public Acts of 1970 resulting from an opinion of the attorney general regarding the validity of enactment of various public acts, OAG, 1987-1988, No 6438, p 80 (May 21, 1987) and a circuit court decision in the matter of Ace Tex Corp v Detroit rendered on February 2, 1990 (Wayne County Circuit Court Case No. 88-807858-CZ), as to which an appeal is pending, and to resolve legislatively the issues raised by the appeal. Before that circuit court decision, the legislature had been advised by the attorney general's office in May 1987 that legislative action was not necessary to authorize the collection of the city utility users tax after July 1, 1988 under Act No. 198 of the Public Acts of 1970. In light of the circuit court decision of February 2, 1990, which is presently on appeal, it appears that legislative action is advisable to clarify the authorization for and to ratify the collection of the tax from July 1, 1988, to authorize the continued collection of the tax, and to resolve legislatively the issues raised by appeal. The legislature by enactment of this act intends to validate, ratify, and revive effective from July 1, 1988 a city utility users tax. This act is remedial and curative and is intended to revive and assure an uninterrupted continuation of the authority to collect a city utility users tax. The legislature finds the city utility users tax was authorized by law on the date when section 31 of article IX of the state constitution of 1963 was ratified.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

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### 141.1158a Contract with lighting authority.

Sec. 8a.

Notwithstanding any ordinance of a city levying a tax authorized by this act, if a city levying the tax authorized by this act enters into a contract with a lighting authority, all of the following shall apply:

(a) The city shall send notice to each public utility and resale customer to remit taxes collected under this act to a trustee until notified by that trustee to return the funds to the city.

(b) After receiving a notice described in subdivision (a), each public utility and resale customer so notified shall remit taxes as directed by the notice to the trustee until notified by the trustee to remit taxes to the city.

(c) The trustee shall notify each public utility and resale customer to remit taxes collected under this act to the city within 45 days of the retirement of debt service on the bonds issued by a lighting authority.

**History:** Add. 2012, Act 393, Imd. Eff. Dec. 19, 2012

### 141.1158b Amount held in trust.

Sec. 8b.

Notwithstanding any ordinance of a city levying the tax or any other provision of this act, any utility, resale customer, other entity, or person that collects a tax or any money represented to be a tax authorized under this act holds the amount so collected in trust for the benefit of the city, or for bondholders secured by a pledge with a lighting authority.

**History:** Add. 2012, Act 393, Imd. Eff. Dec. 19, 2012

# Chapter 2
# UNIFORM CITY UTILITY USERS TAX ORDINANCE

### 141.1161 Short title.

Sec. 1.

This ordinance shall be known and may be cited as the "uniform city utility users tax ordinance".

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

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### 141.1162 Definitions.

Sec. 2.

For the purposes of this ordinance:

(1) The words, terms and phrases set forth below and their derivations have the meanings given therein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and in the singular number include the plural. "Shall" is always mandatory and not merely directory. "May" is always directory.

(2) "Administrator" means the official designated by the city to administer the provisions of this ordinance.

(3) "Billed or ordinarily billable to locations within the taxing city" means the location of the premises of the user for the usage of the public utility services.

(4) "Month" means a calendar month.

(5) "Person" means a natural person, partnership, fiduciary, association, corporation, or other entity. When used in any provision imposing a criminal penalty, "person" as applied to an association means the parties or members thereof, and as applied to a corporation, the officers thereof.

(6) "Public utility services" means the providing, performing or rendering of public service of a telephone, electric, steam, or gas nature, the rates or other charges for which are subjected to regulation by state public utility regulatory bodies, federal public utility or regulatory bodies or both, or the rendering of public service of an electric or gas nature by a government owned facility.

(7) "Public utility" means a person who provides public utility services.

(8) "Resale customer" means a person that purchases utility services or property from a public utility for resale to a utility user.

(9) "Utility user" or "user" means a person required to pay a tax imposed under the provisions of this ordinance.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

## 141.1163 Imposition of city utility users tax; rate; measurement.

Sec. 3.

Subject to the exclusions, adjustments, and exemptions herein provided, a city utility users tax at the rate of .....% for general revenue purposes is hereby imposed on and shall be paid by the utility user. This tax shall be measured by the amounts paid, not including any existing or hereafter enacted taxes (including, but not limited to federal, state, city, and other local taxes, directly added to or directly passed on in the users' billing) paid by users for the public utility services as hereinafter provided, billed or ordinarily billable to locations within the taxing city:

(a) The tax shall be imposed on all intrastate telephone communication services, furnished by a public utility. The term "intrastate telephone communication services" shall not include any telephone service originating or terminating outside Michigan, telephone services by coin-operated installations, directory advertising proceeds, telephone services not taxable under section 4251 of Title 26 of the United States Code as of December 31, 1969, as amended, centrex and multi-line key switching systems, mobile telephone service, and any types of services or equipment, furnished by telephone companies subject to public utility regulation, during any period in which such services or equipment are in competition with services or equipment furnished by or available from persons other than telephone companies subject to public utility regulation.

(b) The tax shall be on all electrical energy and steam provided by a public utility or a resale customer. The term "electrical energy and steam provided" shall include amounts paid for metered energy and steam, and minimum charges for service, including user charges, service charges, demand charges, standby charges, and annual and monthly charges. The term shall not include electrical energy or steam sold to or exchanged with for resale by, another public utility, or used or consumed in the conduct of the business of an electric or steam public utility or a combination gas and electric utility.

(c) The tax shall be on all gas, natural or artificial provided by a public utility or a resale customer. The term "gas, natural or artificial provided" shall not include any gas sold for use in the generation of electrical energy by a public utility, any gas sold to or exchanged with for resale by, another gas public utility, or any gas used or consumed in the conduct of the business of a gas public utility or a combination gas and electric utility.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

## 141.1164 Billing; tax as debt; delinquency; remittance; filing annual return.

Sec. 4.

(1) The taxes imposed under this ordinance shall be billed by the public utility or resale customer as provided in section 3 herein, and they may imprint upon the face of the bill the amount of the tax and the name of the taxing city, commencing with the first regular billing period applicable to that person which starts on or after the date this ordinance is made operative for the taxing city, and shall be paid by the user along with the amounts billed for public utility services furnished.

(2) Any tax required to be paid by a user under this ordinance shall be deemed a debt owed by the user to the taxing city, and deemed delinquent from the time due until paid.

(3) Subject to extensions which may be granted for good cause shown, and to a utility collection fee of 1% of the tax amounts involved, all tax amounts under this ordinance billed by the public utility or resale customer in a given month shall be remitted to the taxing city on or before the last day of the following month, along with a return in such form as may be

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prescribed by the taxing city, showing such information as may be necessary for the proper administration of this ordinance provided that tax amounts based on billings shall be subject to adjustment for tax moneys not actually collected by the public utility or resale customer. Any such tax amounts not so remitted shall be deemed delinquent. An annual return for each year shall be filed by the public utility and resale customer on or before the end of the fourth month following the end of the tax year.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

### 141.1165 Rules relating to administration and enforcement; adoption, amendment, and repeal; collection and disposition of taxes and payments; special ruling; examination of books, papers, and records.

Sec. 5.

(1) The administrator may adopt, amend and repeal rules relating to the administration and enforcement of this ordinance, but not in conflict with the ordinance, subject to the approval of the city governing body. The rules, amendments and repeals, after approval by the city governing body, shall become effective upon being published in the official newspaper of the city.

(2) The administrator shall enforce this ordinance and the rules. The administrator shall prepare, adopt and make available to taxpayers and other persons all forms necessary for compliance with this ordinance.

(3) The city treasurer shall collect all taxes and payments due under this ordinance and deposit them in a designated city depository.

(4) A taxpayer, public utility, or resale customer desiring a special ruling on a matter pertaining to this ordinance or rules shall submit in writing to the administrator all the facts involved and the ruling sought. A taxpayer, public utility, or resale customer, aggrieved by a special ruling may appeal as provided in section 14.

(5) The administrator or his or her duly authorized agent may examine the books, papers and records of any person, public utility, resale customer, taxpayer or his or her agent or representative, for the purpose of verifying the accuracy and completeness of a return filed, or, if no return was filed, to ascertain the tax, penalties or interest due under this ordinance.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

### 141.1166 Confidentiality; violation; penalties.

Sec. 6.

(1) Information gained by the administrator, or any other city official, agent, or employee as a result of a return, investigation, hearing or verification required or authorized by this ordinance is confidential, except for official purposes in connection with the administration of the ordinance and except in accordance with a proper judicial order.

(2) Any person who divulges this confidential information, except for official purposes, is guilty of a violation of this ordinance and subject to a fine not exceeding $500.00 or imprisonment for a period not exceeding 90 days, or both, for each offense. In addition, an employee of the city who divulges this confidential information is subject to discharge for misconduct.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

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**141.1167 Examinations and investigation; furnishing means, facilities, and opportunity; ordering personal appearance for examination; refuse to submit to examination or investigation; violation; penalties.**

Sec. 7.

(1) A person shall furnish, within 10 days following a request of the administrator or his or her duly authorized agent, the means, facilities, and opportunity for making such reasonable examinations and investigations as are authorized by this ordinance, and shall present himself or herself for examination under oath when so ordered by the administrator. The request or order of the administrator or his or her duly authorized agent may be made verbally unless the person requests that the request or order be addressed to him or her in writing.

(2) Refusal by any person to submit to such examination or investigation, when requested or ordered by the administrator, is a violation of this ordinance, punishable by such penalties as are provided in the ordinance.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

**141.1168 Delinquent tax amounts; interest and penalties.**

Sec. 8.

(1) All delinquent tax amounts shall be subject to interest from the due date at the rate of 1/2 of 1% per month or fraction thereof until paid.

(2) A user failing to pay the tax, or any public utility or resale customer failing to remit moneys billed and due the city, when due, or file a return when due, is liable, in addition to the interest, to a penalty of 1% of the amount of the unpaid tax, or moneys unremitted, for each month or fraction thereof, not to exceed a total penalty of 25% of the unpaid tax. The administrator may abate the penalty or a part thereof for just cause. If the total interest or interest and penalty to be assessed is less than $2.00, the administrator, in lieu thereof, may assess a penalty in the amount of $2.00. Interest, interest and penalty, or the minimum charge shall be computed separately for each month or billing period.

(3) Interest and penalties applicable to users shall not be subject to public utility or resale customer billing procedures but shall be recovered only by the taxing city directly from users.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

**141.1169 Failure to remit tax moneys received from users; issuance and service of proposed assessment; proof of mailing; written protest.**

Sec. 9.

(1) If the administrator determines that a user has failed to pay the full amount of the tax due under this ordinance, the administrator may, or if he or she determines that a public utility or resale customer has failed to remit the amount of tax moneys received from users, and due the city, the administrator shall issue a proposed assessment showing the amount due and unpaid, together with interest and penalties that may have accrued thereon. The proposed assessment shall be served upon the user, public utility, or resale customer in person, or by mailing by registered or certified mail to his or her last known address. Proof of mailing the proposed assessment is prima facie evidence of a receipt thereof by the addressee.

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(2) A user, public utility, or resale customer has 30 days after receipt of a proposed assessment within which to file a written protest with the administrator, who shall then give the user, public utility, or resale customer or his or her duly authorized representative an opportunity to be heard and present evidence and arguments in his or her behalf.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

### 141.1170 Hearing; final assessment; proof of mailing; effect of not filing protest.

Sec. 10.

(1) After the hearing the administrator shall issue a final assessment setting forth the total amount found due in the proposed assessment and any adjustment he or she may have made as a result of the protest. The final assessment shall be served in the same manner as a proposed assessment. Proof of mailing of the final assessment is prima facie evidence of a receipt thereof by the addressee.

(2) If a protest is not filed in respect to a proposed assessment, a user, public utility, or resale customer is deemed to have received a final assessment 30 days after receipt of the proposed assessment.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

### 141.1171 Refusal to pay tax due; obligation to rebill; issuance of proposed or final assessment; demand for payment; recovery in court; prosecution.

Sec. 11.

If the public utility or resale customer determines and reports to the administrator that a utility user has refused to pay the tax due, the public utility or resale customer is relieved of the obligation to rebill the tax amount involved. In this event the administrator may, but is not required to, issue a proposed assessment or a final assessment against the user. The administrator may issue a 10-day demand for payment and if no payment or satisfactory evidence of payment is made in the 10 days he or she may thereafter recover the tax with interest and penalties thereon in the name of the city in any court of record as other debts are recoverable, or prosecute for violation of this ordinance under section 17, or both.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

### 141.1172 Additional assessment.

Sec. 12.

Except in case of fraud, failure to file a return, or omission of substantial portions of tax due on a return, an additional assessment shall not be made after 3 years from the date the return was due, including extensions thereof, or the tax was paid, whichever is later.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

### 141.1173 Claim for refund; time; denial; appeal; payment of tax deficiency.

Sec. 13.

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(1) Except as otherwise provided in this ordinance, a tax erroneously paid shall not be refunded unless a claim for refund is made within 3 years from the date the payment was made to the city or the annual return was due, including extensions thereof, whichever is later. Upon denial of a refund, a taxpayer may follow the procedure for appeal as provided in section 14.

(2) A tax deficiency as finally determined and interest or penalties thereon shall be paid within 30 days after receipt of a final assessment where no appeal is made.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

### 141.1174 Person aggrieved by rule, denial of claim, or special ruling; appeal; final order; payment; refund.

Sec. 14.

Any person aggrieved by a rule adopted by the administrator, denial in whole or in part of a claim for refund, or a special ruling, may file a timely appeal therefrom to the state commissioner of revenue in such form and manner as the commissioner shall prescribe. Within 30 days after a final order of the commissioner upon the appeal, such person shall pay the city the taxes, interest, and penalty found due to the city, and the city shall refund any amount found to have been overpaid.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

### 141.1175 Grievance; judicial determination.

Sec. 15.

If a taxpayer, public utility, resale customer, person, or city is aggrieved by a decision of the state commissioner of revenue, the aggrieved party may bring an action within 90 days in the circuit court for the county in which the taxing jurisdiction is located to obtain a judicial determination of the matter.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

### 141.1176 Payment of recovery from general fund.

Sec. 16.

If a person is found entitled by a decision on an appeal to recover any sum paid and no further appeal has been taken within the time limited, the sum shall be paid from the general fund of the city.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

### 141.1177 Violations; penalties.

Sec. 17.

Each of the following violations of this ordinance is punishable, in addition to the interest and penalties provided under the ordinance, by a fine not exceeding $500.00, or imprisonment for a period not exceeding 90 days or both:

(a) Refusal or willful failure or neglect to file a return required by the ordinance.

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(b) Refusal or willful failure or neglect to pay the tax, penalty, or interest imposed by the ordinance.

(c) Willful failure of a public utility or resale customer to remit to the city tax moneys received as required by the ordinance.

(d) Refusal to permit the city or an agent or employee appointed by the administrator in writing to examine the books, records, and papers of a person subject to the ordinance.

(e) Knowingly filing an incomplete, false, or fraudulent return or other tax document.

**History:** 1990, Act 100, Imd. Eff. June 13, 1990

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